FDIC
Federal Deposit Insurance Corporation
3501 Fairfax Drive, Arlington, VA 22226-3500
Legal Division

September 2, 2008

Elizabeth Renuart, Esq.
National Consumer Law Center
77 Summer Street, 10th Floor
Boston, Massachusetts 02110

Dear Ms. Renuart:

During our recent telephone conversation, we discussed the FDIC's position regarding possible claims under the Truth in Lending Act against the FDIC as receiver of IndyMac. One matter we discussed was the FDIC's position regarding the filing of proofs of claim against the receiver of an insolvent bank or thrift. You asked specifically about the FDIC's position regarding the filing of claims related to class actions.

The FDI Act's claims process is mandatory and jurisdictional, and if a court decides that a claimant has not fully complied with this process, that individual's claim will be dismissed for lack of subject matter jurisdiction. Accordingly, as a general matter, these requirements cannot be waived or altered by the FDIC. Each claimant against a failed bank must file an individual proof of claim. A representative may file a claim on behalf of a claimant so long as he or she submits a written power of attorney along with the claim. "Proof" of each claim must be filed in order for the FDIC to evaluate the claim. Thus, each member of a class in a class action lawsuit must file an individual claim that meets these requirements. The FDIC's position on this issue is consistent with the mandatory "claim channeling" requirements of other federal programs.

If you have any questions or comments, please let me know. I can be reached at 703-562-2387.

Sincerely,

Claire McGuire

Claire L. McGuire
Senior Counsel